



Office of the Inspector General
United States Department of Justice

Statement of Glenn A. Fine
Inspector General, U.S. Department of Justice

before the

House Committee on the Judiciary
Subcommittee on Crime, Terrorism,
and Homeland Security

concerning

Section 1001 of the USA Patriot Act

May 10, 2005

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Mr. Chairman, Congressman Scott, and Members of the Subcommittee on Crime, Terrorism, and Homeland Security:

I appreciate the opportunity to testify before the Committee this morning as it examines various provisions of the USA PATRIOT Act (Patriot Act), Public Law 107-56. I am here to discuss one section in particular – Section 1001, the section that directs the Office of the Inspector General (OIG) in the U.S. Department of Justice (DOJ or Department) to undertake a series of actions related to complaints of civil rights or civil liberties violations allegedly committed by DOJ employees. It also requires the OIG to provide semiannual reports to Congress on the implementation of the OIG’s responsibilities under Section 1001.

Since passage of the Patriot Act, the OIG has reported to Congress about our Section 1001 activities on six occasions, most recently in March of this year. Each of these reports is available publicly on the OIG’s website.

In my remarks today, I plan to address three primary issues. First, I will describe how the OIG is implementing its oversight responsibilities under Section 1001. Next, I will discuss the types of civil rights and civil liberties complaints we have received since passage of the Patriot Act, the cases we have investigated, and the outcomes of those investigations. Third, I will highlight findings in a series of OIG reviews that go beyond the explicit requirements of Section 1001 but that are related to our civil rights and civil liberties oversight responsibilities.

I. BACKGROUND

Section 1001 of the Patriot Act provides the following:

The Inspector General of the Department of Justice shall designate one official who shall ?

- (1) review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department of Justice;

- (2) make public through the Internet, radio, television, and newspaper advertisements information on the responsibilities and functions of, and how to contact, the official; and
- (3) submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on a semi-annual basis a report on the implementation of this subsection and detailing any abuses described in paragraph (1), including a description of the use of funds appropriations used to carry out this subsection.

As an independent entity in the Department of Justice, the OIG has statutory jurisdiction to review programs and personnel in all DOJ components (with one exception), including the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), the Federal Bureau of Prisons (BOP), the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the U.S. Attorneys' Offices, and other DOJ components.¹

After passage of the Patriot Act, the OIG created the Special Operations Branch in its Investigations Division to manage the OIG's investigative responsibilities outlined in Section 1001. Staff in this OIG unit receive civil rights and civil liberties complaints via mail, e-mail, telephone, and facsimile, and each complaint is reviewed by an Investigative Specialist and a supervisor. The complaints are entered into an OIG database and a decision is made concerning its disposition. The more serious civil rights and civil liberties allegations that relate to actions of DOJ employees or DOJ contractors normally are assigned to an OIG Investigations Division field office, where OIG special agents conduct investigations of criminal violations and administrative misconduct.² Matters that involve broader issues, such as widespread allegations of detainee abuse, often are assigned to the OIG's Oversight and Review Division for review.

¹ The one exception is that the Department's Office of Professional Responsibility has the jurisdiction to review alleged misconduct by Department attorneys or law enforcement personnel that relates to the exercise of attorneys' authority to investigate, litigate, or provide legal advice. See Attorney General Order 2492-2001.

² It is important to note that the OIG can pursue an allegation either criminally or administratively. Many OIG investigations begin with allegations of criminal activity but, as is the case for any law enforcement agency, do not end in prosecution. When this occurs, the OIG is able to continue the investigation and treat the matter as a case for potential administrative discipline.

Publicizing the fact that we review allegations from individuals of civil rights and civil liberties abuses by Department employees is an important part of our responsibilities under the Patriot Act. Over the past three years, the OIG has met its Section 1001 advertising requirements in a variety of ways, including providing information on the OIG's website about how individuals can report violations of their civil rights or civil liberties and establishing an e-mail address (inspector.general@usdoj.gov) where individuals can send complaints of civil rights and civil liberties violations. The vast majority of the complaints we receive are sent to our e-mail address.

In addition, the OIG developed a poster, translated in Arabic, that explains how to file a civil rights or civil liberties complaint with the OIG. The OIG disseminated approximately 2,500 of these posters to more than 150 national and local Muslim and Arab organizations in 50 cities, including the Council on American-Islamic Relations, Sikh Mediawatch and Resource Task Force, and the American-Arab Anti-Discrimination Committee. We also provided the posters to the BOP, which placed at least two in each of its facilities. The OIG also provided 400 copies of the poster to the Immigration and Naturalization Service (INS), prior to its transfer to the Department of Homeland Security (DHS) in March 2003 for distribution to its offices around the country.

The OIG has aired television advertisements in areas of the country with high concentrations of Arab speakers. The text of this advertisement was spoken in Arabic and scrolled in English. The OIG also purchased blocks of time on ANA Television Network, Inc., an Arab cable television station with outlets around the country. The segment aired 48 times during prime time in June and July 2003.

The OIG also submitted public service announcements to 45 radio stations in cities across the country including New York, Los Angeles, Sacramento, Chicago, Detroit, Houston, Dallas, and Washington, D.C. In addition, we purchased airtime for 44 radio advertisements on Arab/Muslim American radio stations in New York, Chicago, Los Angeles, Detroit, and Dallas. These advertisements, in both English and Arabic, were 60 seconds long.

On several occasions, the OIG has purchased newspaper advertisements in Arab community newspapers highlighting its role in investigating allegations of civil rights and civil liberties abuses. Finally, the OIG created flyers translated into several languages, including Arabic, Urdu, Punjabi, Spanish, and Vietnamese. Special agents in OIG Investigations Division field offices have distributed these flyers to organizations and businesses that have frequent contact with individuals who speak these languages.

In addition to advertising the OIG's role in reviewing claims of civil rights and civil liberties violations, the OIG has reached out in other ways to provide information to the public about our Section 1001 responsibilities, including meeting with groups involved in civil rights and civil liberties issues.

II. CIVIL RIGHTS AND CIVIL LIBERTIES COMPLAINTS

As described below, the OIG received thousands of complaints each year. Given the number of complaints received compared to our limited resources, the OIG does not investigate all allegations, but instead refers the less serious complaints involving DOJ employees to internal affairs offices in DOJ components, such as the FBI Inspection Division, the DEA Office of Professional Responsibility, and the BOP Office of Internal Affairs for appropriate handling. For a majority of the referrals related to Section 1001, the OIG required the components to report the results of their investigations to the OIG. In most cases, the OIG notifies the complainant of the referral.

However, many of the complaints received by the OIG alleging civil rights or civil liberties abuses do not merit investigation or involve matters outside the Department of Justice's jurisdiction. Complaints that identify a specific issue for investigation are forwarded to the appropriate investigative entity. For example, complaints of mistreatment by airport security staff are sent to the DHS OIG. We also have forwarded complaints to other OIGs, including the Department of Veterans Affairs, Department of State, United States Postal Service, Department of Defense, Central Intelligence Agency, and the Equal Employment Opportunity Commission. In addition, we have referred complainants to a variety of police department internal affairs offices that have jurisdiction over the subject matter of those complaints.

When an allegation received from any source involves a potential violation of federal civil rights statutes by a DOJ employee, the OIG normally discusses the complaint with the DOJ Civil Rights Division. In some cases, the Civil Rights Division accepts the case for possible prosecution and requests additional investigation by either the OIG or the FBI. In other cases, the Civil Rights Division declines prosecution.

A. Analysis of Civil Rights and Civil Liberties Complaints

The total number of civil rights and civil liberties complaints processed by the OIG from enactment of the Patriot Act in October 2001 through December 2004 was 7,136. After reviewing the complaints, the OIG determined that 3,902 of the 7,136 complaints did not warrant an investigation

or review.³ The OIG also determined that an additional 2,144 complaints made allegations against agencies or entities outside of the DOJ, including other federal agencies, local governments, or private businesses. The OIG concluded that 970 of the remaining 1,090 complaints that fell within the OIG's jurisdiction raised purely management issues, and the OIG referred those complaints to a variety of DOJ components for handling.⁴ For 120 of these remaining complaints, the OIG determined that an investigation or further review was warranted, either by the OIG or a DOJ component. The OIG opened investigations into 30 of these matters and referred the remaining 90 complaints to the components.

One of the questions we frequently receive about our Section 1001 activities is whether we have received any complaints alleging abuse of a provision in the Patriot Act. None of the allegations we have received alleging misconduct by a Department employee, with one possible exception, related to use of a provision of the Patriot Act. The one possible exception, described later in this testimony, is the Brandon Mayfield matter.

B. Examples of Substantiated Cases

The OIG has taken its Section 1001 duties seriously, and has aggressively investigated various allegations of civil rights violations. While many of the complaints are not substantiated, the OIG has substantiated various allegations of civil rights and civil liberties abuses. The following are examples of investigations completed by the OIG pursuant to its Section 1001 responsibilities in which allegations of abuse were substantiated:

- ◆ The OIG investigated allegations by Muslim inmates that staff at a BOP prison, including the warden, discriminated against these inmates and engaged in retaliatory actions. The OIG substantiated many of the allegations against the warden and other BOP staff, and we found a disturbing pattern of discriminatory and retaliatory actions against Muslim inmates by BOP officers at this facility.

For example, we found that members of the prison's executive staff, including the warden, unfairly punished Muslim inmates who complained about the conditions of confinement or who cooperated

³ For example, some of the complaints were frivolous on their face, alleging that government agents were broadcasting signals that interfere with a person's dreams or that prison officials had laced prison food with hallucinogenic drugs.

⁴ For example, some inmates complained about the general conditions at federal prisons, such as the poor quality of the food or the lack of hygiene products. These complaints were forwarded to the BOP for its review.

with the OIG's investigation. A Muslim inmate who had filed complaints relating to his treatment at the prison was placed in the Special Housing Unit for four months for what we determined were specious reasons. In a separate incident, our review found that 5 days after the OIG interviewed a Muslim inmate, the warden inappropriately and unjustly ordered the inmate transferred to the Special Housing Unit for more than 120 days.

- ◆ The OIG investigated claims that an INS Supervisory Detention Enforcement Officer (SDEO) entered a gas station operated by an Arab-American and demanded paper towels. When the attendant replied that he did not have paper towels, the SDEO displayed his credentials, asked the attendant if he was American, and requested his immigration documents. The investigation also revealed that the SDEO requested a colleague to query an immigration database for information on the attendant. We found that the SDEO improperly displayed his credentials for other than official purposes and inappropriately caused an INS database to be queried. We provided our report of investigation to the DHS for appropriate action.
- ◆ The OIG investigated allegations raised by approximately 20 inmates that a BOP correctional officer verbally abused inmates with ethnic and racial slurs and inappropriate comments. After the BOP facility's investigation concluded that the allegations were unsubstantiated, the BOP's Office of Internal Affairs referred the matter to the OIG. When the OIG interviewed the correctional officer, he admitted to not being completely candid with BOP investigators, to verbally abusing the Muslim inmate, and to throwing the inmate's Koran into the trash can.
- ◆ The OIG investigated allegations that a BOP correctional officer used excessive force and failed to follow BOP policy in handling and restraining a Muslim inmate when the inmate was removed from his cell to be escorted to the Medical Unit for examination. The OIG concluded that the correctional officer used poor judgment in handling the inmate and failed to follow BOP policy when the correctional officer immediately entered the inmate's cell and used force to subdue the inmate instead of waiting for assistance and preparing a plan for a safer entry into the cell.
- ◆ The OIG learned that an electronic communication (EC) from one FBI field office to other FBI field offices around the country identified the names and addresses of the proprietors and customers of a Muslim-based website. The EC listed the proprietors' and customers' names by FBI field office and stated that the field offices should take

whatever action they deemed appropriate. The OIG received a copy of the EC from an FBI employee concerned about the lack of predication or apparent basis on the face of the EC for the information to be sent for investigation to FBI field offices. We asked the FBI Inspection Division to review the incident and report back to us. The FBI Inspection Division notified us that the FBI recognized that the EC raised First Amendment concerns. The FBI subsequently retracted the EC and directed its field offices to conduct no further investigative action based on the EC. The Inspection Division also informed us that the FBI had concluded that the EC should have been reviewed by the legal advisor for the originating field office prior to being disseminated and that in the future such an EC will be subject to legal review.

C. Examples of Cases Not Substantiated

The following are examples of investigations completed by the OIG pursuant to its Section 1001 responsibilities in which allegations of abuse were not substantiated:

- ◆ The OIG investigated allegations that unidentified correctional officers and the warden of a BOP facility threatened to “gas” inmates of Middle Eastern ancestry if war broke out in the Middle East. A BOP inmate further alleged that BOP staff members retaliated against him for reporting these allegations by placing him in segregation, denying him medical treatment, and eventually transferring him to another institution. The OIG investigation did not substantiate the allegations.
- ◆ The OIG investigated allegations that four individuals of Arab descent were detained improperly by FBI agents at the U.S. port of entry in the Virgin Islands. The OIG investigation did not substantiate any misconduct by the FBI agents.
- ◆ The OIG investigated allegations that FBI agents conducted an illegal search of an Arab American’s apartment and, during the search, vandalized the apartment, stole items, and called the complainant a terrorist. The complainant alleged that even though the FBI found no evidence linking him to terrorism, approximately four months later the FBI recruited his friend to plant drugs in the complainant’s home. According to the complainant, FBI agents came to his home, conducted a consent search, and arrested him after finding the drugs. During the OIG interview of the complainant, he recanted his allegations.

- ◆ The OIG investigated allegations that an Arab-American immigration detainee was beaten, threatened by officers, denied adequate medical treatment, and forced to eat pork on a regular basis even though it was against his religion. The OIG interviewed the jail staff and reviewed the complainant's INS and medical records. The jail's Food Services Administrator told the OIG that the jail has had a 100 percent non-pork diet for approximately one year. In addition, prison dental records show that the victim signed consent forms to have his badly infected teeth removed. Regarding the alleged assault by the correctional officers, the OIG investigation revealed conflicting information from the victim, witnesses, and officers, and the OIG could not substantiate the detainee's alleged injuries. The OIG presented the results of its investigation to attorneys in the Civil Rights Division, who declined prosecution.

- ◆ The OIG investigated allegations of misconduct relating to dialysis treatment of Muslim inmates at a BOP medical center. The OIG had received letters from two inmates alleging that inmate patients were required to take injections of porcine (pork) heparin as part of their dialysis treatment, despite the patients' religious objections to pork. While we did not substantiate misconduct by BOP employees, the OIG found deficiencies in the medical center's management of information and communications affecting the use of heparin for the inmates' treatment. The OIG provided several recommendations to the BOP relating to these deficiencies, and the BOP agreed to adopt these recommendations.

III. OTHER ACTIVITIES RELATED TO THE OIG'S CIVIL RIGHTS AND CIVIL LIBERTIES OVERSIGHT RESPONSIBILITIES

The OIG has more than simply responded individually to each complaint of misconduct. Rather, we have conducted several reviews that go beyond the explicit requirements of Section 1001 in order to implement more fully our civil rights and civil liberties oversight responsibilities. Given the multi-disciplinary nature of our staff, the OIG can extend its oversight beyond traditional investigations of misconduct to evaluate DOJ programs. Using this approach, the OIG has conducted reviews that address, in part, issues relating to our duties under Section 1001.

A. Brandon Mayfield Matter

The OIG currently is investigating the FBI's conduct in connection with the erroneous identification of a latent fingerprint found on evidence from the March 2004 Madrid train bombing. The FBI's fingerprint examiners erroneously concluded that the fingerprint belonged to Brandon Mayfield, an

attorney in Portland, Oregon. As a result of the misidentification, the FBI initiated an investigation of Mayfield that resulted in his arrest as a “material witness” and his detention for approximately two weeks. Mayfield was released when Spanish National Police matched the fingerprints on the evidence to an Algerian national. The OIG is examining the cause of the erroneous fingerprint identification and the FBI’s handling of the matter. The Department’s Office of Professional Responsibility is reviewing the conduct of the prosecutors in the case.

The OIG’s report will examine the causes of the misidentification. In connection with this aspect of the report, the OIG has consulted with national fingerprint experts to assist in the evaluation of the causes identified by the FBI and the international panel the FBI assembled to review the case. The OIG report also will examine the corrective actions taken by the FBI Laboratory since the misidentification came to light.

In addition, the OIG report will address issues arising from the FBI’s investigation and arrest of Brandon Mayfield, including the FBI’s use of FISA in this case; any use of or implication of the Patriot Act in this case; the FBI’s participation in the preparation of the material witness and criminal search warrants; and Mayfield’s conditions of confinement while he was held as a material witness.

B. Review of FBI Conduct Relating to Detainees in Military Facilities in Guantanamo Bay and Elsewhere

In late 2004, the OIG initiated a review to examine FBI agents’ observations of interrogation techniques used on detainees held at the U.S. military’s prison facilities in Guantanamo Bay and other military facilities. The OIG is examining whether FBI staff participated in any abusive interrogation techniques of detainees at these military detention facilities, whether and to whom FBI employees reported their observations of these interrogation techniques, and how those reports were handled.

OIG investigators have reviewed thousands of pages of documents from the FBI and the Department of Defense (DOD); interviewed dozens of FBI agents, supervisory FBI personnel, and DOJ officials; and traveled to Guantanamo Bay to interview detainees, FBI personnel, and DOD military personnel. In addition, the OIG plans to survey FBI employees who have served in an overseas area controlled by the U.S. military during the past two years as part of its review of this matter.

C. Treatment of Aliens Held on Immigration Charges in Connection with the Investigation of the September 11 Attacks

After the September 11 terrorist attacks, the Department used federal immigration laws to detain many aliens in the United States who were suspected of having ties to the attacks or connections to terrorism, or who were encountered during the course of the FBI's investigation into the attacks. In the 11 months after the attacks, 762 aliens were detained in connection with the FBI terrorism investigation for various immigration offenses, including overstaying their visas and entering the country illegally.

The OIG received allegations of mistreatment by these detainees. Rather than handling each one separately, we examined in a systematic fashion the treatment of these detainees, including their processing, the bond decisions, the timing of their removal from the United States or their release from custody, their access to counsel, and their conditions of confinement. The OIG's 198-page report, released in June 2003, focuses in particular on detainees held at the BOP's Metropolitan Detention Center (MDC) in Brooklyn, New York.

Our report found significant problems in the way the Department handled the September 11 detainees. Among the report's findings:

- The FBI in New York City made little attempt to distinguish between aliens who were subjects of the FBI terrorism investigation (called "PENTTBOM") and those encountered coincidentally to a PENTTBOM lead. The OIG report concluded that, even in the chaotic aftermath of the September 11 attacks, the FBI should have expended more effort attempting to distinguish between aliens who it actually suspected of having a connection to terrorism from those aliens who, while possibly guilty of violating federal immigration law, had no connection to terrorism but simply were encountered in connection with a PENTTBOM lead.
- The INS did not consistently serve the September 11 detainees with notice of the charges under which they were being held within the INS's goal of 72 hours. Our review found that some detainees did not receive these charging documents for weeks or more than a month after being arrested. This delay affected the detainees' ability to understand why they were being held, obtain legal counsel, and request a bond hearing.
- The Department instituted a policy that all aliens in whom the FBI had an interest in connection with the PENTTBOM investigation required clearance by the FBI of any connection to terrorism before they could be removed or released. The policy was based on the belief – which turned

out to be erroneous – that the FBI’s clearance process would proceed quickly. The OIG review found that instead of taking a few days as anticipated, the FBI clearance process took an average of 80 days, primarily because it was understaffed and not given sufficient priority by the FBI.

- In the first 11 months after the terrorist attacks, 84 September 11 detainees were housed at the MDC in Brooklyn under highly restrictive conditions. These conditions included “lock down” for at least 23 hours per day; escort procedures that included a “4-man hold” with handcuffs, leg irons, and heavy chains when the detainees were moved outside their cells; and a limit of one legal telephone call per week and one social call per month.
- BOP officials imposed a communications blackout for September 11 detainees immediately after the terrorist attacks that lasted several weeks. After the blackout period ended, the MDC’s designation of the September 11 detainees as “Witness Security” inmates frustrated efforts by detainees’ attorneys, families, and even law enforcement officials to determine where the detainees were being held. We found that MDC staff frequently – and mistakenly – told people who inquired about a specific September 11 detainee that the detainee was not held at the facility when, in fact, the opposite was true.
- With regard to allegations of abuse at the MDC, the evidence indicated a pattern of physical and verbal abuse by some correctional officers against some September 11 detainees, particularly during the first months after the attacks and during intake and movement of prisoners. The OIG conducted a supplementary investigation of these allegations (discussed below).

The OIG report offered 21 recommendations addressing issues such as developing uniform arrest and detainee classification policies, improving information-sharing among federal agencies on detainee issues, improving the FBI clearance process, clarifying procedures for processing detainee cases, revising BOP procedures for confining aliens arrested on immigration charges who are suspected of having ties to terrorism, and improving oversight of detainees housed in contract facilities.

In responding to the report, the Department took significant steps to implement the OIG’s recommendations. For example, the Department developed protocols for making more timely decisions on whether an alien is “of interest” to the FBI or whether the alien should be handled according to routine immigration procedures. In addition, the BOP implemented a policy to

retain for six months, rather than 30 days, videotapes depicting inmate movements outside their prison cells.

However, the Department still has not taken action on all the recommendations. Despite the agreement by the Department and the DHS to enter into a memorandum of understanding (MOU) to formalize policies, responsibilities, and procedures for managing a national emergency that involves alien detainees, this MOU has not yet been established. We have been informed that discussions between the Department and the DHS over the language of the MOU still are ongoing.

D. Supplemental Report on September 11 Detainees' Allegations of Abuse at the MDC in Brooklyn, New York

In December 2003, the OIG issued a Supplemental Report that examined in detail allegations made by detainees held in connection with the Department's terrorism investigation that some MDC correctional staff members at the MDC physically and verbally abused them.

The Supplemental Report concluded that certain MDC staff members abused some of the detainees. We did not find evidence that the detainees were brutally beaten, but we found evidence that some officers slammed detainees against the wall, twisted their arms and hands in painful ways, stepped on their leg restraint chains, and punished the detainees by keeping them restrained for long periods of time. We concluded that the way these MDC staff members handled detainees was, in many respects, unprofessional, inappropriate, and in violation of BOP policy.

In addition, we found systemic problems in the way detainees were treated at the MDC, including staff members' use of a t-shirt taped to the wall in the facility's receiving area designed to send an inappropriate message to detainees, audio taping of detainees meetings with their attorneys, unnecessary and inappropriate use of strip searches, and banging on detainees' cell doors excessively while they were sleeping.

During our investigation, we examined approximately 30 detainees' allegations of physical and verbal abuse against approximately 20 MDC staff members. In our review of these allegations, we interviewed more than 115 individuals, including detainees, MDC staff members, and others.

We also reviewed MDC videotapes, including hundreds of tapes showing detainees being moved around the facility and tapes from cameras in detainees' cells. During the course of our investigation, MDC officials repeatedly told us that videotapes of general detainee movements no longer existed. That information was inaccurate. In late August 2003, the OIG found more than

300 videotapes at the MDC spanning the period from October through November 2001.

The OIG developed evidence that approximately 16 to 20 MDC staff members, most of whom were assigned to the ADMAX SHU, violated BOP policy by physically or verbally abusing detainees, and we recommended that the BOP consider discipline for them.

In addition, we made seven systemic recommendations to the BOP, ranging from developing guidance to train correctional officers in appropriate restraint techniques to educating BOP staff concerning the impropriety of audio recording meetings between inmates and their attorneys.

The BOP has reacted favorably to the systemic recommendations, and has taken appropriate action to implement them. However, the BOP still has not imposed discipline on anyone in response to our report.

The BOP initiated its own investigation based on the OIG's findings to determine whether discipline is warranted. Yet, more than a year later, the BOP review still is ongoing. We believe that this delay is too long and that appropriate discipline should have been imposed in a more timely fashion.

Finally, in February 2005, the BOP discovered additional videotapes from the MDC relevant to the OIG's supplemental review that had not been provided previously to the OIG. Some of the videotapes included additional instances of video- and audio-taped meetings between detainees and their attorneys at the MDC. Others concerned detainee movements. The OIG and the BOP are reviewing the newly discovered videotapes, and the OIG is investigating why the MDC had not previously provided these videotapes.

E. Review of BOP Security Policies Regarding the Search Religious Headwear

In another review, the OIG examined the BOP's policies on searching religious headwear worn by visitors to BOP facilities. This review arose out of a complaint to the OIG from a Sikh attorney who was denied access to his client being held at the MDC in Brooklyn, New York, because he refused to remove his turban for inspection. The Sikh's religious practice requires him to wear his turban in public at all times.

The OIG review examined the BOP's policies regarding religious headwear in light of the BOP's interest in ensuring security at its facilities. The OIG interviewed the Sikh attorney, officials at the MDC, BOP managers, and representatives from Sikh Mediawatch and Resource Task Force.

During our review, BOP Headquarters issued a memorandum to all Regional Directors and Wardens that clarified how the BOP's search policies should be interpreted and applied to the search of religious headwear. While this memorandum effectively addressed the Sikh attorney's complaint, the OIG recommended that the BOP take additional steps to ensure that its search policies are consistently applied throughout the BOP to all visitors who wear religious headwear. In response to our report, the BOP revised its official policies by outlining a standard procedure for searching religious headwear. The BOP also addressed the searching of religious headwear during its staff annual refresher training in 2004.

F. Review of the BOP's Process for Selecting Muslim Clerics

In May 2004, the OIG released a report that examined the BOP's procedures for selecting individuals who provide Islamic religious services to federal inmates. The OIG initiated its review in response to concerns from several members of Congress about the selection of Muslim chaplains. Our investigation examined the recruitment, endorsement, selection, and supervision of Muslim chaplains, contractors, and volunteers who work with the approximately 9,000 BOP inmates who seek Islamic religious services.

The OIG review found that while the BOP has made some improvements in how it selects and supervises Muslim religious services providers, a number of deficiencies remained, including that:

- the BOP and the FBI had not adequately exchanged information regarding the possible connections to terrorism of Muslim organizations that endorse applicants for BOP religious service positions;
- once contractors and certain volunteers gain access to BOP facilities, ample opportunity existed for them to deliver inappropriate and extremist messages without supervision from BOP staff members; and
- BOP inmates often lead Islamic religious services, subject only to intermittent supervision from BOP staff members, which increases the possibility that inappropriate messages can be delivered to inmates.

The OIG review made 16 recommendations to help the BOP improve its process for selecting, screening, and supervising Muslim religious services providers. These recommendations include improving and increasing the information flow between the BOP and the FBI regarding the radicalization and recruitment of inmates; requiring that all chaplain, religious contractor, and certain volunteer applicants be interviewed by at least one individual knowledgeable of the applicant's religion; implementing additional security screening requirements for religious services providers; supervising more

closely inmate-led religious services; using more effectively the expertise of its current Muslim chaplains to screen, recruit, and supervise Muslim religious services providers; and developing a strategy specifically targeted towards recruiting additional Muslim chaplains and contractors.

The BOP agreed with all of the report's recommendations. It has implemented procedures to integrate into the interview process experts who are knowledgeable of applicants' religious beliefs and practices; implemented further security screening requirements for religious services providers; assigned an additional staff member as liaison with the FBI to increase and improve information-sharing between the two agencies; restructured its endorsement requirements for religious services providers; and modified its requirements for the supervision of chapel areas.

G. Review of the FBI's Implementation of Attorney General Guidelines

The OIG is completing a review of the FBI's implementation of four sets of Attorney General guidelines that govern the exercise of FBI investigations: Attorney General's Guidelines Regarding the Use of Confidential Informants; Attorney General's Guidelines on FBI Undercover Operations; Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations; and Revised Department of Justice Procedures for Lawful, Warrantless Monitoring of Verbal Communications.

The OIG review of the FBI's implementation of the revised investigative guidelines is designed to assess the FBI's compliance with the guidelines and to evaluate the procedures that the FBI employed to ensure that the revised guidelines were properly put into practice. Adherence to these guidelines could implicate civil rights or civil liberties issues under Section 1001.

As part of this review, the OIG surveyed three groups of special agents in the FBI's 56 field offices who play key roles in responding to questions about and promoting adherence to the guidelines: Confidential Informant Coordinators; Undercover Coordinators; and Division Counsel, who serve as chief legal advisers in the field. The team also surveyed Criminal Division Chiefs of the 93 U.S. Attorneys' Offices to address guidelines' provisions requiring routine approval, concurrence, or notification to U.S. Attorneys' Offices relating to significant Guidelines-related authorities or developments. In addition, the OIG team visited 12 FBI field offices to review FBI investigative and administrative files reflecting use of the authorities or operational techniques authorized by the guidelines. Finally, the OIG reviewed hundreds of FBI documents and interviewed senior FBI officials at Headquarters and in field offices.

IV. CONCLUSION

Since passage of the Patriot Act, the OIG has taken steps to fulfill its duties under Section 1001. We have created the infrastructure within the OIG to evaluate the hundreds of complaints we receive each reporting period, have conducted extensive public outreach about our duties, and have opened investigations on the most serious allegations that fall within our jurisdiction.

In addition, we have completed a series of reviews examining important issues related to our civil rights and civil liberties oversight responsibility. We also have several ongoing reviews that implicate these issues.

That concludes my statement, and I would be pleased to answer any questions about the OIG's work.